WEST VIRGINIA CODE: §16-5L-7

§16-5L-7. Regional long-term care ombudsmen; qualifications; duties; training; certification.

(a) Each regional long-term care ombudsman program shall employ one or more regional long-term care ombudsmen to effect the purposes of this article. The regional long-term care ombudsman shall have either: (1) At least a bachelor's degree in gerontology, social work, health, or a related field and demonstrated experience in one of the following areas: (A) The field of aging; (B) health care or social service programs; (C) community programs; or (D) long-term care issues; or (2) at least a bachelor's degree in any field and at least three years of experience in gerontology, social work, health or a related field. Experience in gerontology, social work, health or a related field may be substituted for up to two years (sixty hours) of college on a year-for-year basis. The supervising ombudsman must have at least a bachelor's degree in gerontology, social work, health or a related field and demonstrated experience in one of the following areas: (A) The field of aging; (B) health care or social service programs; (C) community programs; and (D) long-term care issues. Persons employed in a designated regional long-term care ombudsman program on the date of enactment of this article may be given a waiver from these requirements provided that within one year from the date of enactment of this article they enter into a program leading to a degree in gerontology, social work, health or a related field or complete fifty hours of continuing education units in gerontology, social work, health or a related field every two calendar year periods. The regional long-term care ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities. The regional long-term care ombudsman may not have been employed within the past two years prior to the date of his or her employment under this section by any association of long-term care facilities. If a regional long-term care ombudsman has been employed within the past two years prior to the date of his or her employment under this section by a long-term care facility, or by any organization or corporation that directly or indirectly regulates, owns or operates a long-term care facility, that ombudsman may not act with the authority of a regional long-term care ombudsman in the facility of prior employment or in any other facility regulated, owned or operated by the same ownership as the facility of prior employment.

(b) Neither the regional long-term care ombudsman nor any member of his or her immediate family may have, or have had within the two years preceding his or her employment under this section, any pecuniary interest in the provision of long-term care. For the purposes of this section, the term "immediate family" shall mean the spouse, children, natural mother, natural father, natural brothers or natural sisters of the regional long-term care ombudsman.

(c) The duties of the regional long-term care ombudsman shall include, but are not limited to, the following:

(1) Regularly monitoring long-term care facilities and investigating complaints filed on behalf of a resident, or filed on the regional long-term care ombudsman's own initiative,

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relating to the health, safety, welfare and rights of such residents, in accordance with complaint investigation procedures developed by the state long-term ombudsman care program: Provided, That nothing in this section shall be construed as to grant a regional long-term care ombudsman the right of entry to a long-term care facility's drug rooms or to treatment rooms occupied by a resident unless prior consent has been obtained from the resident;

(2) Monitoring the development and implementation of federal, state and local laws, regulations and policies with respect to long-term care facilities;

(3) Training certified volunteers in accordance with the training and certification program developed by the state long-term care ombudsman program;

(4) Encouraging, cooperating with, and assisting the development and operation of referral services which can provide current, valid and reliable information on long-term care facilities and alternatives to institutionalization to persons in need of these services and the general public;

(5) Submitting reports as required by the state long-term care ombudsman program; and

(6) Other duties as mandated by the Older Americans Act of 1965, as amended.

(d) The state long-term care ombudsman shall develop and implement procedures for training and certification of regional long-term care ombudsmen. Regional long-term care ombudsmen who satisfactorily complete the training requirements shall be certified by the state commission on aging and shall be given identification cards which shall be presented to employees of a long-term care facility upon request. No regional long-term care ombudsman may investigate any complaint filed with the West Virginia long-term care ombudsman program unless the person has been certified by the state commission on aging. Consistent with the provisions of this article and any rules promulgated pursuant to section twenty-one, certified regional long-term ombudsmen shall be representatives of the state long-term care ombudsman program.

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